

1974

## c 132 The Mining Tax Amendment Act, 1974

Ontario

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## CHAPTER 132

**An Act to amend The Mining Tax Act, 1972***Assented to February 14th, 1975*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 1 of *The Mining Tax Act, 1972*, being chapter <sup>s. 1, amended</sup> 140, is amended by relettering clause *a* as clause *aa* and by adding thereto the following clause:

(a) “associated persons” means associated persons as determined under subsection 2*b* of section 3.

- (2) Clause *h* of the said section 1 is repealed and the follow-<sup>s. 1 (h), re-enacted</sup> ing substituted therefor:

(h) “output” when used in reference to a mine means the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances,

(i) are sold as such, or

(ii) are not sold as such but are fed into a treatment plant at any mill, smelter or refinery and the product of their treatment or partial treatment is sold.

- (3) The said section 1 is further amended by adding thereto<sup>s. 1, amended</sup> the following clause:

(ia) “processing” means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining or semi-fabricating, or any combination thereof.

- 2.—(1) Subsection 1 of section 3 of the said Act is repealed<sup>s. 3 (1) re-enacted</sup> and the following substituted therefor:

Profit  
tax

(1) Every mine the profit of which as determined under this section exceeds \$100,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,

- (a) 15 per cent on the excess of profit above \$100,000 and up to \$1,000,000; and
- (b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and
- (c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and
- (d) 30 per cent on the excess of profit above \$20,000,000 and up to \$30,000,000; and
- (e) 35 per cent on the excess of profit above \$30,000,000 and up to \$40,000,000; and
- (f) 40 per cent on the excess of profit above \$40,000,000.

s. 3 (2),  
re-enacted

(2) Subsection 2 of the said section 3 is repealed and the following substituted therefor:

Mines  
operated  
together

(2) For the purpose of this section and section 6, all mines that are operated by, and the profits of which accrue to, the same person or associated persons shall, for the purpose of determining the amount of tax payable under this Act, be deemed to be and be dealt with as one and the same mine and not as separate mines.

Exception

(2a) Subsection 2 does not apply to a mine brought into active operation for the first time after the 9th day of April, 1974.

Associated  
persons

(2b) Where two or more mines are worked, operated, managed, or controlled by two or more persons and the Minister is satisfied, notwithstanding the separate existence of such persons,

- (a) that their separate existence in a taxation year is not solely for the purpose of carrying out the business of the different persons in the most effective manner; and
- (b) that one of the reasons for their separate existence is to reduce the amount of taxes that would be otherwise payable under this section,

the two or more different persons shall, if the Minister so directs, be deemed to be associated persons for the purpose of subsection 2 and section 6.

(2c) Written notice of a direction by the Minister under subsection 2*b* shall be mailed or delivered forthwith to the persons deemed to be associated persons. <sup>Notice</sup>

(2*d*) Where two or more different persons are deemed to be associated persons by direction of the Minister under subsection 2*b*, any such person or persons may, within thirty days after the day on which notice of the making of the direction is mailed or delivered, appeal the direction to a judge of the Supreme Court in accordance with the practice and procedures of that Court and an appeal lies to the Court of Appeal from a decision of a judge of the Supreme Court, provided that notice of such appeal is delivered or served by the party appealing within fifteen days after the making of the decision that is appealed, and the procedure upon and governing such appeal to the Court of Appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in any civil action, but leave to appeal is not necessary. <sup>Appeal</sup>

(3) Clause *b* of subsection 3 of the said section 3 is repealed <sup>s. 3 (3) (b),</sup> and the following substituted therefor: <sup>re-enacted</sup>

(*b*) where the mineral substances or a part thereof are not sold as such, the amount of the actual market value at the pit's mouth of the mineral substances raised, taken or gained from the mine that are fed into a treatment plant at any mill, smelter or refinery and the product thereof is sold in the taxation year; or

(4) Clause *c* of subsection 3 of the said section 3 is repealed <sup>s. 3 (3) (c),</sup> and the following substituted therefor: <sup>re-enacted</sup>

(*c*) if there is no means of ascertaining the actual market value at the pit's mouth of the mineral substances referred to in clause *b*, the amount at which the mine assessor appraises the value of such mineral substances, provided that the mine assessor in appraising such value shall deduct,

(i) the processing costs incurred as prescribed or determined by the regulations, and



- (ii) an allowance for profit in respect of processing at a rate or rates prescribed by the regulations or determined by the mine assessor,

from the proceeds of the processed mineral substances sold during the taxation year,

s. 3 (3) (d),  
re-enacted

- (5) Clause *d* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (d) the expenses incurred in respect of scientific research conducted in Canada and related to mining operations in Ontario.

s. 3 (3) (l),  
re-enacted

- (6) Clause *l* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (l) notwithstanding clause *k*, an allowance for depreciation in each taxation year not exceeding 30 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974 that has not been used previously in mining operations until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.

s. 3 (3) (n),  
re-enacted

- (7) Clause *n* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (n) notwithstanding anything in this subsection, at least 15 per cent and up to 100 per cent of,

- (i) the exploration and development expenditures incurred in Ontario after the 9th day of April, 1974 and prior to the date of commencement of production, with the object of finding, testing or opening up deposits of mineral substances, and
- (ii) the exploration and development expenditures, incurred in Ontario on and after the date of commencement of production with the object of finding, testing or opening up deposits of mineral substances,

if the following conditions are met:

1. The expenditure has not at any time in a previous taxation year been allowed as an expense or deduction under this Act.
2. The expenditure is approved by the mine assessor.
3. The expenditure does not include money paid for the purchase or acquisition of an option to purchase or in the acquisition of the right to mine or an option on the right to mine such deposits.
4. The expenditure was made or borne by the operator of the mine liable to taxation.
5. Separate accounts of the expenditure are kept and furnished to the mine assessor in reasonable detail with the return required under section 6.

(8) Clause *e* of subsection 4 of the said section 3 is <sup>s. 3 (4) (e),</sup> repealed.

**3.** -(1) Section 23 of the said Act is amended by adding thereto <sup>s. 23,</sup> the following clauses: <sup>amended</sup>

- (ca) prescribing what shall be taken into consideration in determining if and at what point in time a mine is brought into active operation and providing for the making of such determination;
- (cb) prescribing or determining anything that, by this Act, is to be prescribed or determined by the regulations.

s. 23,  
amended

- (2) The said section 23 is further amended by adding thereto the following subsections:

Regulation  
re value of  
output at  
pit's mouth

(2) A regulation under clause *c* of subsection 1 may provide that no amounts may be deducted for processing costs or that no allowance or different rates of allowance for profit in respect of processing may be deducted in calculating the value of output at the pit's mouth in different areas prescribed in the regulation.

Regulation  
may be  
retroactive

(3) A regulation made under subsection 1 may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Saving,  
1972, c. 140

4. Notwithstanding the repeal and re-enactment of clause *n* of subsection 3 of section 3 and the repeal of clause *e* of subsection 4 of section 3 of *The Mining Tax Act, 1972*, by subsection 7 and subsection 8, respectively, of section 2 of this Act, the provisions of the said clauses as they existed on the 9th day of April, 1974, shall continue to apply to all mines which commenced production after the 1st day of January, 1965 and on or before the 9th day of April, 1974.

Determina-  
tion of tax

5. Where a taxation year ends after the 9th day of April, 1974 but commences before that date, the amount of tax payable shall be calculated on a *pro rata* basis by,

(a) determining the tax payable for the entire taxation year under section 3 of *The Mining Tax Act, 1972*, as amended by section 2 of this Act;

(b) determining the proportion of the amount of tax payable under clause *a* that the number of days of the taxation year that follow the 9th day of April, 1974 bears to the total number of days of that taxation year;

(c) determining the tax payable for the entire said taxation year under section 3 of *The Mining Tax Act, 1972*, as it existed on the 9th day of April, 1974;

(d) determining the proportion of the amount of the tax payable under clause *c* that the number of days of the taxation year that fall before the 10th day of April, 1974 bears to the total number of days of that taxation year;

(e) determining the aggregate of the amounts determined under clauses *b* and *d* in respect of the tax payable for the taxation year.

6. This Act shall be deemed to have come into force on the 10th day of April, 1974. Commence-  
ment
7. This Act may be cited as *The Mining Tax Amendment Act, 1974*. Short title



